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HOUSE BILL 48

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Andy Nunez

FOR THE WATER AND NATURAL RESOURCES COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING A PERSONAL INCOME TAX CREDIT  
AND A CORPORATE INCOME TAX CREDIT FOR AGRICULTURAL WATER  
CONSERVATION EXPENSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Income Tax Act is enacted  
to read:

"[NEW MATERIAL] TAX CREDIT- - AGRICULTURAL WATER  
CONSERVATION EXPENSES. --

A. A taxpayer may claim a credit against his income  
tax liability equal to seventy-five percent of his incurred  
expenses, not to exceed a maximum annual credit of ten thousand  
dollars (\$10,000), for eligible improvements in irrigation  
systems or water management methods. The credit may be claimed  
for the taxable year in which the expenses are incurred if the

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1 taxpayer in that year:

2 (1) owned or leased a water right appurtenant  
3 to the land on which an eligible improvement was made;

4 (2) files an individual New Mexico income tax  
5 return; and

6 (3) is not a dependent of another individual.

7 B. As used in this section, "eligible improvement  
8 in irrigation systems or water management methods" means an  
9 improvement that is:

10 (1) made after January 1, 2005;

11 (2) consistent and complies with a water  
12 conservation plan approved by the local soil and water  
13 conservation district in which the improvement is located; and

14 (3) primarily designed to substantially  
15 conserve water on land in New Mexico that is owned or leased by  
16 the taxpayer and used by the taxpayer or the taxpayer's lessee  
17 to:

18 (a) produce agricultural products;

19 (b) harvest or grow trees; or

20 (c) sustain livestock.

21 C. Taxpayers who are considered for federal income  
22 tax purposes as co-owners of the land on which an eligible  
23 improvement in irrigation systems or water management methods  
24 is made may claim the pro rata share of the credit allowed  
25 pursuant to this section based on the co-owner's ownership

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underscored material = new  
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1 interest. The total of the credits allowed all the taxpayers  
2 considered co-owners may not exceed the amount that would have  
3 been allowed a sole owner of the land.

4 D. A husband and wife who file separate returns for  
5 a taxable year in which they could have filed a joint return  
6 may each claim only one-half of the credit that would have been  
7 allowed on a joint return.

8 E. If the allowable tax credit in a taxable year  
9 exceeds the income taxes otherwise due from a taxpayer pursuant  
10 to the Income Tax Act, or if there are no income taxes due from  
11 the taxpayer, the taxpayer may carry forward the amount of the  
12 credit not used in that year to offset the taxpayer's liability  
13 for income taxes pursuant to the Income Tax Act for not more  
14 than five consecutive taxable years.

15 F. The soil and water conservation commission, with  
16 information provided by the state engineer, shall promulgate  
17 rules to implement this section, and those rules shall include  
18 detailed guidelines to assist the department in determining  
19 whether improvements in irrigation systems or water management  
20 methods qualify for the credit available under this section."

21 Section 2. A new section of the Corporate Income and  
22 Franchise Tax Act is enacted to read:

23 "NEW MATERIAL TAX CREDIT-- AGRICULTURAL WATER  
24 CONSERVATION EXPENSES. --

25 A. A taxpayer may claim a credit against his

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underscored material = new  
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1 corporate income tax liability equal to seventy-five percent of  
2 his incurred expenses, not to exceed a maximum annual credit of  
3 ten thousand dollars (\$10,000), for eligible improvements in  
4 irrigation systems or water management methods. The credit may  
5 be claimed for the taxable year in which the expenses are  
6 incurred if the taxpayer in that year:

7 (1) owned or leased a water right appurtenant  
8 to the land on which an eligible improvement was made; and

9 (2) files a New Mexico corporate income tax  
10 return.

11 B. As used in this section, "eligible improvement  
12 in irrigation systems or water management methods" means an  
13 improvement that is:

14 (1) made after January 1, 2005;

15 (2) consistent and complies with a water  
16 conservation plan approved by the local soil and water  
17 conservation district in which the improvement is located; and

18 (3) primarily designed to substantially  
19 conserve water on land in New Mexico that is owned or leased by  
20 the taxpayer and used by the taxpayer or the taxpayer's lessee  
21 to:

22 (a) produce agricultural products;

23 (b) harvest or grow trees; or

24 (c) sustain livestock.

25 C. Taxpayers that are considered for federal income

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1 tax purposes as co-owners of the land on which an eligible  
2 improvement in irrigation systems or water management methods  
3 is made may claim the pro rata share of the credit allowed  
4 pursuant to this section based on the co-owner's ownership  
5 interest. The total of the credits allowed all the taxpayers  
6 considered co-owners may not exceed the amount that would have  
7 been allowed a sole owner of the land.

8 D. If the allowable tax credit in a taxable year  
9 exceeds the income taxes otherwise due from a taxpayer pursuant  
10 to the Corporate Income and Franchise Tax Act, or if there are  
11 no taxes due pursuant to the Corporate Income and Franchise Tax  
12 Act, the taxpayer may carry forward the amount of the credit  
13 not used in that year to offset the taxpayer's liability for  
14 income taxes pursuant to the Corporate Income and Franchise Tax  
15 Act for not more than five consecutive tax years.

16 E. The soil and water conservation commission, with  
17 information provided by the state engineer, shall promulgate  
18 rules to implement this section, and those rules shall include  
19 detailed guidelines to assist the department in determining  
20 whether improvements in irrigation systems or water management  
21 methods qualify for the credit available under this section."

22 Section 3. APPLICABILITY.--The provisions of this act  
23 apply to taxable years beginning on and after January 1, 2005.